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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**  
8

9 Morris Cooper,

No. CV 22-00231-PHX-JAT (ESW)

10 Plaintiff,

11 v.

**ORDER**

12 John Doe Officer #1, et al.,

13 Defendants.  
14

15 On February 11, 2022, Plaintiff Morris Cooper, who is confined in the Atlantic  
16 County Justice Facility in Mays Landing, New Jersey, filed a pro se civil rights Complaint  
17 pursuant to 42 U.S.C. § 1983 and an Application to Proceed In Forma Pauperis. In a March  
18 7, 2022 Order, the Court denied the Application to Proceed with leave to refile and  
19 dismissed the Complaint with leave to amend. On March 25, 2022, Plaintiff filed a new  
20 Application to Proceed In Forma Pauperis (Doc. 7) and a First Amended  
21 Complaint (Doc. 9). The Court will grant the Application to Proceed and dismiss the First  
22 Amended Complaint with leave to amend.

23 **I. Application to Proceed In Forma Pauperis and Filing Fee**

24 The Court will grant Plaintiff's March 25 Application to Proceed In Forma Pauperis.  
25 28 U.S.C. § 1915(a). Plaintiff must pay the statutory filing fee of \$350.00. 28 U.S.C.  
26 § 1915(b)(1). The Court will assess an initial partial filing fee of \$18.66. The remainder  
27 of the fee will be collected monthly in payments of 20% of the previous month's income  
28 credited to Plaintiff's trust account each time the amount in the account exceeds \$10.00.

1 28 U.S.C. § 1915(b)(2). The Court will enter a separate Order requiring the appropriate  
 2 government agency to collect and forward the fees according to the statutory formula.

## 3 **II. Statutory Screening of Prisoner Complaints**

4 The Court is required to screen complaints brought by prisoners seeking relief  
 5 against a governmental entity or an officer or an employee of a governmental entity. 28  
 6 U.S.C. § 1915A(a). The Court must dismiss a complaint or portion thereof if a plaintiff  
 7 has raised claims that are legally frivolous or malicious, that fail to state a claim upon which  
 8 relief may be granted, or that seek monetary relief from a defendant who is immune from  
 9 such relief. 28 U.S.C. § 1915A(b)(1)–(2).

10 A pleading must contain a “short and plain statement of the claim *showing* that the  
 11 pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2) (emphasis added). While Rule 8 does  
 12 not demand detailed factual allegations, “it demands more than an unadorned, the-  
 13 defendant-unlawfully-harmed-me accusation.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678  
 14 (2009). “Threadbare recitals of the elements of a cause of action, supported by mere  
 15 conclusory statements, do not suffice.” *Id.*

16 “[A] complaint must contain sufficient factual matter, accepted as true, to ‘state a  
 17 claim to relief that is plausible on its face.’” *Id.* (quoting *Bell Atlantic Corp. v. Twombly*,  
 18 550 U.S. 544, 570 (2007)). A claim is plausible “when the plaintiff pleads factual content  
 19 that allows the court to draw the reasonable inference that the defendant is liable for the  
 20 misconduct alleged.” *Id.* “Determining whether a complaint states a plausible claim for  
 21 relief [is] . . . a context-specific task that requires the reviewing court to draw on its judicial  
 22 experience and common sense.” *Id.* at 679. Thus, although a plaintiff’s specific factual  
 23 allegations may be consistent with a constitutional claim, a court must assess whether there  
 24 are other “more likely explanations” for a defendant’s conduct. *Id.* at 681.

25 But as the United States Court of Appeals for the Ninth Circuit has instructed, courts  
 26 must “continue to construe *pro se* filings liberally.” *Hebbe v. Pliler*, 627 F.3d 338, 342  
 27 (9th Cir. 2010). A “complaint [filed by a *pro se* prisoner] ‘must be held to less stringent  
 28

standards than formal pleadings drafted by lawyers.” *Id.* (quoting *Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (per curiam)).

If the Court determines that a pleading could be cured by the allegation of other facts, a pro se litigant is entitled to an opportunity to amend a complaint before dismissal of the action. *See Lopez v. Smith*, 203 F.3d 1122, 1127-29 (9th Cir. 2000) (en banc). Plaintiff’s First Amended Complaint will be dismissed for failure to state a claim, but because it may possibly be amended to state a claim, the Court will dismiss it with leave to amend.

### **III. First Amended Complaint**

Plaintiff names Phoenix Police Officers John Doe Officer #1 and John Doe Officer #2 as Defendants in his two-count Complaint and seeks money damages.

In Count One, Plaintiff alleges Defendants violated his Fourth Amendment rights when, on December 27, 2020, they falsely arrested him for arson in connection with a fire in his child’s mother’s residence. Plaintiff claims his child’s mother falsely reported that he tried to burn down the house from the outside, while she was inside the home. Plaintiff asserts the fire department investigator responded to the scene on the day of the fire and notified police officers that the fire started inside of the residence.

Plaintiff’s child’s mother informed Defendants of Plaintiff’s location and Defendants “took [Plaintiff] into custody (miles from the incident).” Plaintiff contends Defendants had reviewed surveillance camera footage from outside of the home and “did not observe Plaintiff committing any crime, yet still decided to take [him] into custody or arrest [him] even though [his] child’s mother claimed [he] started the fire from the outside of the home.” Plaintiff states he was “taken into custody for the incident and released a week and some days later” and “all the criminal charges in connection with the incident were dismissed.”

Plaintiff contends Defendants lacked probable cause to arrest him because they were in possession of “conclusive evidence” that disproved his child’s mother’s statements and “showed that probable cause did not exist to arrest the Plaintiff.”

1 In Count Two, Plaintiff alleges Defendants violated his Fourth and Fourteenth  
 2 Amendment rights when they maliciously prosecuted him by initiating his prosecution  
 3 without probable cause, “which caused the Plaintiff to be confined for a week then released  
 4 without any pending charges.” Plaintiff claims Defendants acted with malice “because[,]  
 5 at the time they took the Plaintiff into custody[,] the footage of the incident did not show  
 6 the Plaintiff committing any crime and what the victim alleged was implausible because it  
 7 was scientifically impossible.”

#### 8 **IV. Failure to State a Claim**

##### 9 **A. False Arrest**

10 “False arrest, a species of false imprisonment, is the detention of a person without  
 11 his consent and without lawful authority.” *Donahoe v. Arpaio*, 869 F. Supp. 2d 1020, 1064  
 12 (D. Ariz. 2012) (quoting *Reams v. City of Tucson*, 701 P.2d 598, 601 (Ariz. Ct. App. 1985)),  
 13 *aff’d sub nom. Stapley v. Pestalozzi*, 733 F.3d 804 (9th Cir. 2013). Under Arizona law,  
 14 false imprisonment and false arrest consist of non-consensual detention of a person  
 15 “without lawful authority.” *Slade v. City of Phx.*, 541 P.2d 550, 552 (Ariz. 1975).  
 16 “Reflective of the fact that false imprisonment consists of detention without legal process,  
 17 a false imprisonment ends once the victim becomes held *pursuant to such process*—when,  
 18 for example, he is bound over by a magistrate or arraigned on charges.” *Wallace v. Kato*,  
 19 549 U.S. 384, 389 (2007) (emphasis in original).

20 To state a § 1983 claim for false arrest, Plaintiff must show that Defendants made  
 21 the arrest without probable cause or other justification. *Gravelet-Blondin v. Shelton*, 728  
 22 F.3d 1086, 1097 (9th Cir. 2013). “‘Probable cause exists if the arresting officers ‘had  
 23 knowledge and reasonably trustworthy information of facts and circumstances sufficient  
 24 to lead a prudent person to believe that [the arrestee] had committed or was committing a  
 25 crime.’” *Id.* at 1097-98 (quoting *Maxwell v. County of San Diego*, 697 F.3d 941, 951 (9th  
 26 Cir. 2012)); *see also Edgerly v. City & County of S.F.*, 599 F.3d 946, 953 (9th Cir. 2010)  
 27 (“To determine whether the Officers had probable cause at the time of the arrest, we  
 28 consider ‘whether at that moment the facts and circumstances within [the Officers’]

1 knowledge . . . were sufficient to warrant a prudent man in believing that the petitioner had  
 2 committed or was committing an offense.” (quoting *Beck v. Ohio*, 379 U.S. 89, 91  
 3 (1964))). “[P]robable cause supports an arrest so long as the arresting officers had probable  
 4 cause to arrest the suspect *for any criminal offense*, regardless of their stated reason for the  
 5 arrest.” *Edgerly*, 599 F.3d at 954 (emphasis added). “If an officer has probable cause to  
 6 believe that an individual has committed even a very minor criminal offense in his  
 7 presence, he may, without violating the Fourth Amendment, arrest the offender.” *Atwater*  
 8 *v. City of Lago Vista*, 532 U.S. 318, 354 (2001).

9 “[A] claim for false arrest turns only on whether probable cause existed to arrest a  
 10 defendant, and . . . it is not relevant whether probable cause existed with respect to each  
 11 individual charge, or, indeed, any charge actually invoked by the arresting officer at the  
 12 time of arrest.” *Jaegly v. Couch*, 439 F.3d 149, 154 (2d Cir. 2006); *see also Price v. Roark*,  
 13 256 F.3d 364, 369 (5th Cir. 2001) (“Claims for false arrest focus on the validity of the  
 14 arrest, not on the validity of each individual charge made during the course of the arrest.”).  
 15 “Thus . . . ‘[i]f there was probable cause for any of the charges made . . . then the *arrest*  
 16 was supported by probable cause, and the claim for false arrest fails.’” *Price*, 256 F.3d at  
 17 369 (quoting *Wells v. Bonner*, 45 F.3d 90, 95 (5th Cir. 1995)); *see also Barry v. Fowler*,  
 18 902 F.2d 770, 773 n.5 (9th Cir. 1990) (no unconstitutional seizure where police had  
 19 probable cause to arrest plaintiff for one offense, even if police lacked probable cause to  
 20 arrest for a second offense).

21 Plaintiff does not allege that Defendants lacked probable cause to arrest him for any  
 22 criminal offense. The electronic records for the Maricopa County Superior Court indicate  
 23 that on January 6, 2021, shortly after Plaintiff’s December 27, 2020 arrest, Plaintiff had a  
 24 Fugitive From Justice initial hearing at which he was informed of an outstanding warrant  
 25 for arrest from the State of Texas, and a Fugitive Complaint and warrant were filed against  
 26 him.<sup>1</sup> Plaintiff does not state whether he was detained pursuant to the Texas arrest warrant  
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28 <sup>1</sup> See January 6, 2020 Minute Entry in *State v. Cooper*, Maricopa County Superior  
 Court case numbers CR 2020-00404 and CR 2020-004045, <http://www.court>

1 at the same time he was arrested for the arson charges that were eventually dismissed.  
2 Accordingly, Plaintiff has failed to state a false arrest claim.

### 3 **B. Malicious Prosecution**

4 A claim of malicious prosecution is not cognizable under § 1983 if a remedy is  
5 available within the state judicial system. *Usher v. City of Los Angeles*, 828 F.2d 556, 561  
6 (9th Cir. 1987); *Paskaly v. Seale*, 506 F.2d 1209, 1212 (9th Cir. 1974).<sup>2</sup> “Malicious  
7 prosecution, by itself, does not constitute a due process violation; to prevail [a plaintiff]  
8 must show that the defendants prosecuted [him] with malice and without probable cause,  
9 and that they did so for the purpose of denying [him] equal protection or another specific  
10 constitutional right.” *Freeman v. City of Santa Ana*, 68 F.3d 1180, 1189 (9th Cir. 1995);  
11 *Bretz v. Kelman*, 773 F.2d 1026, 1031 (9th Cir. 1985) (en banc) (“an exception exists . . .  
12 when a malicious prosecution is conducted with the intent to deprive a person of equal  
13 protection of the law or is otherwise intended to subject a person to denial of constitutional  
14 rights.”); *Cline v. Brusett*, 661 F.2d 108, 112 (9th Cir. 1981). Additionally, police officers  
15 do not incur liability merely because a court subsequently acquits the arrestee of the  
16 particular charge cited by the officers. *Pierson v. Ray*, 386 U.S. 547, 555 (1967).

17 Plaintiff’s allegations do not support a conclusion that Defendants prosecuted him  
18 with malice and for the purpose of denying him equal protection or another specific  
19 constitutional right. Accordingly, Plaintiff has failed to state a malicious prosecution  
20 claim.

### 21 **V. Leave to Amend**

22 For the foregoing reasons, the Court will dismiss Plaintiff’s First Amended  
23 Complaint for failure to state a claim upon which relief may be granted. Within 30 days,  
24 Plaintiff may submit a second amended complaint to cure the deficiencies outlined above.

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minutes.maricopa.gov/viewerME.asp?fn=Criminal/012021/m9411115.pdf (last visited  
26 Apr. 12, 2022).

27 <sup>2</sup> In Arizona, a state court remedy for malicious prosecution is available on a  
28 showing of lack of probable cause and malice. *See Cullison v. City of Peoria*, 584 P.2d  
1156, 1160 (Ariz. 1978).

1 The Clerk of Court will mail Plaintiff a court-approved form to use for filing a second  
 2 amended complaint. If Plaintiff fails to use the court-approved form, the Court may strike  
 3 the second amended complaint and dismiss this action without further notice to Plaintiff.

4 Plaintiff must clearly designate on the face of the document that it is the “Second  
 5 Amended Complaint.” The second amended complaint must be retyped or rewritten in its  
 6 entirety on the court-approved form and may not incorporate any part of the original  
 7 Complaint or First Amended Complaint by reference. Plaintiff may include only one claim  
 8 per count.

9 A second amended complaint supersedes the original Complaint and First Amended  
 10 Complaint. *Ferdik v. Bonzelet*, 963 F.2d 1258, 1262 (9th Cir. 1992); *Hal Roach Studios v.*  
 11 *Richard Feiner & Co.*, 896 F.2d 1542, 1546 (9th Cir. 1990). After amendment, the Court  
 12 will treat the original Complaint and First Amended Complaint as nonexistent. *Ferdik*,  
 13 963 F.2d at 1262. Any cause of action that was raised in the original Complaint or First  
 14 Amended Complaint and that was voluntarily dismissed or was dismissed without  
 15 prejudice is waived if it is not alleged in a second amended complaint. *Lacey v. Maricopa*  
 16 *County*, 693 F.3d 896, 928 (9th Cir. 2012) (en banc).

## 17 **VI. Warnings**

### 18 **A. Release**

19 If Plaintiff is released while this case remains pending, and the filing fee has not  
 20 been paid in full, Plaintiff must, within 30 days of his release, either (1) notify the Court  
 21 that he intends to pay the unpaid balance of his filing fee within 120 days of his release or  
 22 (2) file a *non*-prisoner application to proceed in forma pauperis. Failure to comply may  
 23 result in dismissal of this action.

### 24 **B. Address Changes**

25 Plaintiff must file and serve a notice of a change of address in accordance with Rule  
 26 83.3(d) of the Local Rules of Civil Procedure. Plaintiff must not include a motion for other  
 27 relief with a notice of change of address. Failure to comply may result in dismissal of this  
 28 action.



1           **C.     Possible “Strike”**

2           Because the First Amended Complaint has been dismissed for failure to state a  
3 claim, if Plaintiff fails to file a second amended complaint correcting the deficiencies  
4 identified in this Order, the dismissal may count as a “strike” under the “3-strikes”  
5 provision of 28 U.S.C. § 1915(g). Under the 3-strikes provision, a prisoner may not bring  
6 a civil action or appeal a civil judgment in forma pauperis under 28 U.S.C. § 1915 “if the  
7 prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility,  
8 brought an action or appeal in a court of the United States that was dismissed on the  
9 grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be  
10 granted, unless the prisoner is under imminent danger of serious physical injury.” 28  
11 U.S.C. § 1915(g).

12           **D.     Possible Dismissal**

13           If Plaintiff fails to timely comply with every provision of this Order, including these  
14 warnings, the Court may dismiss this action without further notice. *See Ferdik*, 963 F.2d  
15 at 1260-61 (a district court may dismiss an action for failure to comply with any order of  
16 the Court).

17           **IT IS ORDERED:**

18           (1)     Plaintiff’s Application to Proceed In Forma Pauperis (Doc. 7) is **granted**.

19           (2)     As required by the accompanying Order to the appropriate government  
20 agency, Plaintiff must pay the \$350.00 filing fee and is assessed an initial partial filing fee  
21 of \$18.66.

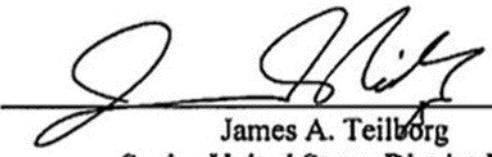
22           (3)     The First Amended Complaint (Doc. 9) is **dismissed** for failure to state a  
23 claim. Plaintiff has **30 days** from the date this Order is filed to file a second amended  
24 complaint in compliance with this Order.

25           (4)     If Plaintiff fails to file a second amended complaint within 30 days, the Clerk  
26 of Court must, without further notice, enter a judgment of dismissal of this action with  
27 prejudice that states that the dismissal may count as a “strike” under 28 U.S.C. § 1915(g)  
28 and deny any pending unrelated motions as moot.



1           (5)     The Clerk of Court must mail Plaintiff a court-approved form for filing a  
2 civil rights complaint by a prisoner.

3           Dated this 15th day of April, 2022.

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8           James A. Teilborg  
9           Senior United States District Judge  
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**Instructions for a Prisoner Filing a Civil Rights Complaint  
in the United States District Court for the District of Arizona**

1. Who May Use This Form. The civil rights complaint form is designed to help incarcerated persons prepare a complaint seeking relief for a violation of their federal civil rights. These complaints typically concern, but are not limited to, conditions of confinement. **This form should not be used to challenge your conviction or sentence.** If you want to challenge a state conviction or sentence, you should file a petition under 28 U.S.C. § 2254 for a writ of habeas corpus by a person in state custody. If you want to challenge a federal conviction or sentence, you should file a motion under 28 U.S.C. § 2255 to vacate sentence in the federal court that entered the judgment.
2. The Form. **Local Rule of Civil Procedure (LRCiv) 3.4 provides that complaints by incarcerated persons must be filed on the court-approved form.** The form must be typed or neatly handwritten. The form must be completely filled in to the extent applicable. All questions must be answered clearly and concisely in the appropriate space on the form. If needed, you may attach additional pages, **but no more than fifteen additional pages**, of standard letter-sized paper. You must identify which part of the complaint is being continued and number all pages. If you do not fill out the form properly, you will be asked to submit additional or corrected information, which may delay the processing of your action. You do not need to cite law.
3. Your Signature. You must tell the truth and sign the form. If you make a false statement of a material fact, you may be prosecuted for perjury.
4. The Filing and Administrative Fees. The total fees for this action are \$402.00 (\$350.00 filing fee plus \$52.00 administrative fee). If you are unable to immediately pay the fees, you may request leave to proceed in forma pauperis. Please review the “Information for Prisoners Seeking Leave to Proceed with a (Non-Habeas) Civil Action in Federal Court In Forma Pauperis Pursuant to 28 U.S.C. § 1915” for additional instructions.
5. Original and Judge’s Copy. You must send an **original plus one copy** of your complaint and of any other documents submitted to the Court. You must send one additional copy to the Court if you wish to have a file-stamped copy of the document returned to you. All copies must be identical to the original. Copies may be legibly handwritten. **This section does not apply to inmates housed at an Arizona Department of Corrections facility that participates in electronic filing.**
6. Where to File. You should file your complaint in the division **where you were confined when your rights were allegedly violated.** See LRCiv 5.1(a) and 77.1(a). If you were confined in Maricopa, Pinal, Yuma, La Paz, or Gila County, file in the Phoenix Division. If you were confined in Apache, Navajo, Coconino, Mohave, or Yavapai County, file in the Prescott Division. If you were confined in Pima, Cochise, Santa Cruz, Graham, or Greenlee County, file in the Tucson Division. **Mail the original and one copy of the complaint with the \$402 filing and administrative fees or the application to proceed in forma pauperis to:**

Phoenix & Prescott Divisions:  
U.S. District Court Clerk  
U.S. Courthouse, Suite 130  
401 West Washington Street, SPC 10  
Phoenix, Arizona 85003-2119

**OR**

Tucson Division:  
U.S. District Court Clerk  
U.S. Courthouse, Suite 1500  
405 West Congress Street  
Tucson, Arizona 85701-5010

7. Change of Address. You must immediately notify the Court and the defendants in writing of any change in your mailing address. **Failure to notify the Court of any change in your mailing address may result in the dismissal of your case.**

8. Certificate of Service. You must furnish the defendants with a copy of any document you submit to the Court (except the initial complaint and application to proceed in forma pauperis). Each original document (except the initial complaint and application to proceed in forma pauperis) must include a certificate of service on the last page of the document stating the date a copy of the document was mailed to the defendants and the address to which it was mailed. *See Fed. R. Civ. P. 5(a), (d).* Any document received by the Court that does not include a certificate of service may be stricken. **This section does not apply to inmates housed at an Arizona Department of Corrections facility that participates in electronic filing.**

A certificate of service should be in the following form:

I hereby certify that a copy of the foregoing document was mailed  
this \_\_\_\_\_ (month, day, year) to:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Attorney for Defendant(s)

\_\_\_\_\_  
(Signature)

9. Amended Complaint. If you need to change any of the information in the initial complaint, you must file an amended complaint. The amended complaint must be written on the court-approved civil rights complaint form. You may file one amended complaint without leave (permission) of Court within 21 days after serving it or within 21 days after any defendant has filed an answer, whichever is earlier. *See Fed. R. Civ. P. 15(a).* Thereafter, you must file a motion for leave to amend and lodge (submit) a proposed amended complaint. LRCiv 15.1. In addition, an amended complaint may not incorporate by reference any part of your prior complaint. LRCiv 15.1(a)(2). **Any allegations or defendants not included in the amended complaint are considered dismissed.** All amended complaints are subject to screening under the Prison Litigation Reform Act; screening your amendment will take additional processing time.

10. Exhibits. You should not submit exhibits with the complaint or amended complaint. Instead, the relevant information should be paraphrased. You should keep the exhibits to use to support or oppose a motion to dismiss, a motion for summary judgment, or at trial.

11. Letters and Motions. It is generally inappropriate to write a letter to any judge or the staff of any judge. The only appropriate way to communicate with the Court is by filing a written pleading or motion.

12. Completing the Civil Rights Complaint Form.

**HEADING:**

1. Your Name. Print your name, prison or inmate number, and institutional mailing address on the lines provided.
2. Defendants. If there are **four or fewer** defendants, print the name of each. If you name **more than four** defendants, print the name of the first defendant on the first line, write the words “and others” on the second line, and attach an additional page listing the names of **all** of the defendants. Insert the additional page after page 1 and number it “1-A” at the bottom.
3. Jury Demand. If you want a jury trial, you must write “JURY TRIAL DEMANDED” in the space below “CIVIL RIGHTS COMPLAINT BY A PRISONER.” Failure to do so may result in the loss of the right to a jury trial. A jury trial is not available if you are seeking only injunctive relief.

**Part A. JURISDICTION:**

1. Nature of Suit. Mark whether you are filing the complaint pursuant to 42 U.S.C. § 1983 for state, county, or city defendants; “*Bivens v. Six Unknown Federal Narcotics Agents*” for federal defendants; or “other.” If you mark “other,” identify the source of that authority.
2. Location. Identify the institution and city where the alleged violation of your rights occurred.
3. Defendants. Print all of the requested information about each of the defendants in the spaces provided. If you are naming more than four defendants, you must provide the necessary information about each additional defendant on separate pages labeled “2-A,” “2-B,” etc., at the bottom. Insert the additional page(s) immediately behind page 2.

**Part B. PREVIOUS LAWSUITS:**

You must identify any other lawsuit you have filed in either state or federal court while you were a prisoner. Print all of the requested information about each lawsuit in the spaces provided. If you have filed more than three lawsuits, you must provide the necessary information about each additional lawsuit on a separate page. Label the page(s) as “2-A,” “2-B,” etc., at the bottom of the page and insert the additional page(s) immediately behind page 2.

**Part C. CAUSE OF ACTION:**

You must identify what rights each defendant violated. The form provides space to allege three separate counts (**one violation per count**). If you are alleging more than three counts, you must provide the necessary information about each additional count on a separate page. Number the additional pages “5-A,” “5-B,” etc., and insert them immediately behind page 5. Remember that you are limited to a total of fifteen additional pages.

1. Counts. You must identify which civil right was violated. **You may allege the violation of only one civil right per count.**
2. Issue Involved. Check the box that most closely identifies the issue involved in your claim. **You may check only one box per count.** If you check the box marked “Other,” you must identify the specific issue involved.
3. Supporting Facts. After you have identified which civil right was violated, you must state the supporting facts. Be as specific as possible. You must state what each individual defendant did to violate your rights. If there is more than one defendant, you must identify which defendant did what act. You also should state the date(s) on which the act(s) occurred, if possible.
4. Injury. State precisely how you were injured by the alleged violation of your rights.
5. Administrative Remedies. You must exhaust any available administrative remedies before you file a civil rights complaint. *See* 42 U.S.C. § 1997e. Consequently, you should disclose whether you have exhausted the inmate grievance procedures or administrative appeals for each count in your complaint. If the grievance procedures were not available for any of your counts, fully explain why on the lines provided.

**Part D. REQUEST FOR RELIEF:**

Print the relief you are seeking in the space provided.

**SIGNATURE:**

You must sign your name and print the date you signed the complaint. Failure to sign the complaint will delay the processing of your action. Unless you are an attorney, you may not bring an action on behalf of anyone but yourself.

**FINAL NOTE**

You should follow these instructions carefully. Failure to do so may result in your complaint being stricken or dismissed. All questions must be answered concisely in the proper space on the form. If you need more space, you may attach no more than fifteen additional pages. But the form must be completely filled in to the extent applicable. If you attach additional pages, be sure to identify which section of the complaint is being continued and number the pages.

\_\_\_\_\_  
Name and Prisoner/Booking Number

\_\_\_\_\_  
Place of Confinement

\_\_\_\_\_  
Mailing Address

\_\_\_\_\_  
City, State, Zip Code

**(Failure to notify the Court of your change of address may result in dismissal of this action.)**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

\_\_\_\_\_,  
(Full Name of Plaintiff)

Plaintiff,

v.

(1) \_\_\_\_\_,  
(Full Name of Defendant)

(2) \_\_\_\_\_,

(3) \_\_\_\_\_,

(4) \_\_\_\_\_,

Defendant(s).

☐ Check if there are additional Defendants and attach page 1-A listing them.

**CASE NO.** \_\_\_\_\_  
(To be supplied by the Clerk)

**CIVIL RIGHTS COMPLAINT  
BY A PRISONER**

- ☐ Original Complaint  
☐ First Amended Complaint  
☐ Second Amended Complaint

**A. JURISDICTION**

1. This Court has jurisdiction over this action pursuant to:

☐ 28 U.S.C. § 1343(a); 42 U.S.C. § 1983

☐ 28 U.S.C. § 1331; *Bivens v. Six Unknown Federal Narcotics Agents*, 403 U.S. 388 (1971).

☐ Other: \_\_\_\_\_.

2. Institution/city where violation occurred: \_\_\_\_\_.

## B. DEFENDANTS

1. Name of first Defendant: \_\_\_\_\_. The first Defendant is employed as: \_\_\_\_\_ at \_\_\_\_\_.  
(Position and Title) (Institution)
2. Name of second Defendant: \_\_\_\_\_. The second Defendant is employed as: \_\_\_\_\_ at \_\_\_\_\_.  
(Position and Title) (Institution)
3. Name of third Defendant: \_\_\_\_\_. The third Defendant is employed as: \_\_\_\_\_ at \_\_\_\_\_.  
(Position and Title) (Institution)
4. Name of fourth Defendant: \_\_\_\_\_. The fourth Defendant is employed as: \_\_\_\_\_ at \_\_\_\_\_.  
(Position and Title) (Institution)

If you name more than four Defendants, answer the questions listed above for each additional Defendant on a separate page.

## C. PREVIOUS LAWSUITS

1. Have you filed any other lawsuits while you were a prisoner? ☐ Yes ☐ No
2. If yes, how many lawsuits have you filed? \_\_\_\_\_. Describe the previous lawsuits:
  - a. First prior lawsuit:
    1. Parties: \_\_\_\_\_ v. \_\_\_\_\_
    2. Court and case number: \_\_\_\_\_
    3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) \_\_\_\_\_
  - b. Second prior lawsuit:
    1. Parties: \_\_\_\_\_ v. \_\_\_\_\_
    2. Court and case number: \_\_\_\_\_
    3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) \_\_\_\_\_
  - c. Third prior lawsuit:
    1. Parties: \_\_\_\_\_ v. \_\_\_\_\_
    2. Court and case number: \_\_\_\_\_
    3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) \_\_\_\_\_

If you filed more than three lawsuits, answer the questions listed above for each additional lawsuit on a separate page.





## COUNT II

1. State the constitutional or other federal civil right that was violated: \_\_\_\_\_

2. **Count II.** Identify the issue involved. Check **only one**. State additional issues in separate counts.
- |  |   |   |                                       |
|--|---|---|---------------------------------------|
| <input type="checkbox"/> Basic necessities             | <input type="checkbox"/> Mail             | <input type="checkbox"/> Access to the court  | <input type="checkbox"/> Medical care |
| <input type="checkbox"/> Disciplinary proceedings      | <input type="checkbox"/> Property         | <input type="checkbox"/> Exercise of religion | <input type="checkbox"/> Retaliation  |
| <input type="checkbox"/> Excessive force by an officer | <input type="checkbox"/> Threat to safety | <input type="checkbox"/> Other: _____         |                                       |

3. **Supporting Facts.** State as briefly as possible the FACTS supporting Count II. Describe exactly what **each Defendant** did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

4. **Injury.** State how you were injured by the actions or inactions of the Defendant(s).

- ## 5. Administrative Remedies.

- a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution? ☐ Yes ☐ No
- b. Did you submit a request for administrative relief on Count II? ☐ Yes ☐ No
- c. Did you appeal your request for relief on Count II to the highest level? ☐ Yes ☐ No
- d. If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not.

### COUNT III

1. State the constitutional or other federal civil right that was violated: \_\_\_\_\_.
2. **Count III.** Identify the issue involved. Check **only one**. State additional issues in separate counts.  
☐ Basic necessities                      ☐ Mail                      ☐ Access to the court                      ☐ Medical care  
☐ Disciplinary proceedings                      ☐ Property                      ☐ Exercise of religion                      ☐ Retaliation  
☐ Excessive force by an officer                      ☐ Threat to safety                      ☐ Other: \_\_\_\_\_.
3. **Supporting Facts.** State as briefly as possible the FACTS supporting Count III. Describe exactly what each Defendant did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.  
\_\_\_\_\_  
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\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.
4. **Injury.** State how you were injured by the actions or inactions of the Defendant(s).  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.
5. **Administrative Remedies.**
- a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution?                      ☐ Yes                      ☐ No
- b. Did you submit a request for administrative relief on Count III?                      ☐ Yes                      ☐ No
- c. Did you appeal your request for relief on Count III to the highest level?                      ☐ Yes                      ☐ No
- d. If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not. \_\_\_\_\_

**If you assert more than three Counts, answer the questions listed above for each additional Count on a separate page.**

**E. REQUEST FOR RELIEF**

State the relief you are seeking:

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I declare under penalty of perjury that the foregoing is true and correct.

Executed on \_\_\_\_\_  
DATE

\_\_\_\_\_  
SIGNATURE OF PLAINTIFF

\_\_\_\_\_  
(Name and title of paralegal, legal assistant, or  
other person who helped prepare this complaint)

\_\_\_\_\_  
(Signature of attorney, if any)

\_\_\_\_\_  
(Attorney's address & telephone number)

**ADDITIONAL PAGES**

All questions must be answered concisely in the proper space on the form. If you need more space, you may attach no more than fifteen additional pages. But the form must be completely filled in to the extent applicable. If you attach additional pages, be sure to identify which section of the complaint is being continued and number all pages.